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DEC 18 2006Remarks/Arguments

In the Office Action of October 18, 2006, claims 1-2, 4-7, 11-16 and 23-26 were rejected. At page 11 of the Office Action, the Examiner indicated that claims 8-10 were objected to as being dependent from a rejected base claim, but would be allowable if rewritten in independent form, including all the limitations of the base claim and any intervening claims. Applicant's proposed amendment adds new claim 27 which corresponds to claim 8 rewritten in independent form. Notice of allowance of claim 27 is respectfully requested.

New claim 28 corresponds to claim 9 rewritten in independent form. Notice of allowance of claim 28 is respectfully requested.

At page 11 of the Office Action, the Examiner included the following statement of reasons for the indication of allowable subject matter:

That the prior art of record does not teach or suggest either alone or in combination positioning said flexible articulate tubular device so as to trace the said target weld path during the method of metal fusion bonding as recited in claim 1.

Although Applicants agree with the Examiner that the above statement is indeed a basis for allowable subject matter, claim 1 does not include the recited limitations. However, Applicant's proposed amendment includes new independent claim 29 which corresponds to claim 1 rewritten to include the language "positioning said flexible articulate tubular device so as to trace said target weld path during the method of metal fusion bonding." Notice of allowance of new claim 29 is respectfully requested.

Claims 1-2, 4-6, 11-14, and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Branch et al (U.S. 3,219,789) in view of Morris et al (U.S. 3,197,611) and Sakai (U.S. 6,270,453). In the Office Action, the Examiner recites selective portions of Branch

U. S. Application No. 10/720,725
Page 12

et al, but notes that Branch lacks the disclosure of a flexible tubing comprising a plurality of rings. The Examiner then recites selective portions of Morris et al, but notes that both Branch and Morris lack specific disclosure of a control module with motion controller comprising electronics and an articulation drive device connected to the plurality of pivot rings. Then the Examiner cites selective portions of Sakai as disclosing a control module comprising a motion controller comprising electronics and an articulation drive device operatively connected to a plurality of pivot rings. The Examiner then concludes:

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Branch to include the corrugation rings of Morris in order to maintain the articulated position of the weld torch and tubing by resisting any internal tendency to straighten out (Morris et al, column 2, lines 15-17), and further to modify the combined invention of Branch and Morris to include the motion controller and tubular ring structure of Sakai in order to provide a bending device of high operability and productivity for examining an insertion tube (Sakai, column 1, lines 57-58). (See the Office Action of October 18, 2006, page 11, lines 4-7).

Applicants maintain that the rejection fails to establish a prima facie case for a number of reasons. First, the rejection fails to state what portion of Branch is being modified by the corrugated rings of Morris. Nor does the rejection indicate what portions of Branch would be kept and which would be discarded and why. Further, apparently the Examiner proposes to modify the corrugated rings of Morris with the tubular ring structure and a motion controller of Sakai. However, removing the corrugated rings of Morris would render Morris inoperative for its intended purpose, i.e., to maintain a rigid position by utilizing corrugated rings. The Examiner's attention is respectfully directed to MPEP 2143.01 VI which indicates that a proposed modification is improper if it changes the principal operation of a reference. Morris et al teaches a corrugated member to resist any internal tendency of the tube to straighten out.

U. S. Application No. 10/720,725
Page 13

However, the proposed modification of Morris with Sakai is to utilize a tubular ring structure and a motion controller to actually provide bending of the tubular member. As such, the proposed modification is improper. No prima facie case of obviousness has been established.

Claim 7 had been rejected under 35 U.S.C. 103(a) as being unpatentable over Branch et al (U.S. 3,219,789), Morris et al (U.S. 3,197,611), and Sakai (U.S. 6,270,453) as applied to claim 1 above and further in view of Corby, Jr. et al (U.S. 4,532,405). However, the addition of Corby, Jr. et al does not overcome the deficiency and that failure to establish a prima facie case through the improper combination of Branch et al, Morris et al and Sakai for the reasons stated above.

Likewise, claim 15 was rejected under 35 U.S.C. 103(a) as being unpatentable over Branch et al, Morris et al and Sakai as applied to claim 14 above, and further in view of Corby, Jr. et al. However, again the rejection is based upon the improper combination and modification of the references Branch, Morris et al and Sakai and the addition of Corby, Jr. et al does not overcome the deficiencies therein. Therefore, no prima facie case of obviousness has been established with respect to claim 15.

Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over Branch et al, Morris et al and Sakai as applied to claim 13 and further in view of Berg et al (U.S. 6,888,972 B2). Again, the rejection of claim 16 is improper because it is based upon the improper combination and modification of the Branch et al, Morris et al and Sakai references for the reasons stated above. The addition of Berg et al does not overcome the deficiencies with respect to the improper combination of Branch et al, Morris et al and Sakai. No prima facie case of obviousness has been established with respect to claim 16.

U. S. Application No. 10/720,725
Page 14

In view of the above proposed amendments and remarks, Applicant respectfully requests allowance of claims 1-2, 4-16, and 23-29 now in the case.

The Commissioner is hereby authorized and respectfully requested to charge the fee for newly added claims 27-29 and any other fees that may be due with this submission to Deposit Account No. 07-0960.

Respectfully Submitted,



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